

TOWN OF TIVERTON
ZONING BOARD OF REVIEW
MINUTES

JUNE 6, 2007

The following petitions were received and were heard by the Tiverton Zoning Board on June 6, 2007 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, Jay Jackson, Richard Taylor, Michael Fairhurst & Raymond LaFazia.

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by South Shore Tiverton, LLC; Robert P. Barrile of 413 Bulgarmarsh Road, Tiverton, RI requesting a variance to Article XIV Sections 4 & 5a and Article V Section 1 in order to demolish an existing commercial structure and replace it with a modular commercial structure and change a temporary structure to a permanent structure located at 413 Bulgarmarsh Road, Tiverton, RI being Block 117 Card 30 on Tiverton Tax Assessor's maps expanding a legal non conforming use and exceeding the height limit allowed in a R40/R80 zone.

DECISION: No one appeared for this petition. Mr. Taylor made a motion to deny for failure to appear. Mr. Jackson seconded. The Vote was unanimous. Voting were Chairman David Collins, Mr. Jackson, Mr. Taylor, Mr. Fairhurst and Mr. LaFazia.

2. A petition has been filed by Manuel A. & Belmira R. Carvalho of 907 Lake Road, Tiverton, RI requesting a variance to Article V, Section 1 of the Tiverton Zoning Ordinance in order to subdivide the parcel located at 907 Lake Road, Tiverton, RI being Block 130 Card 50 on Tiverton Tax Assessor's maps into two lots, leaving a barn closer to the south side yard, a house closer to the front yard, two sheds closer to the north side yard of lot 1 and creating less than the lot width allowed on lot 2 currently located in a R80 zone.

DECISION: Attorney Leary appeared before the board representing the petitioner. Mr. Leary introduced a letter addressed to the board dated May 19 and an engineering drawing of the site plan to be marked as Exhibit A.

Attorney Leary stated as follows: That the Carvalhos own an existing lot in an R80 zone on the east side of Lake Road in Tiverton which contains the land that's shown on the plan. The existing single lot is 8.3 acres. At the present time there are two existing dwellings on the lot both on the same lot as it presently exists and since there are two dwellings on the lot, that makes it presently a nonconforming use. His proposal is to divide it into two lots as shown on the plan and each of the lots will then conform to the area requirements in an R80 zone. So the effect is to turn a nonconforming use into two

conforming uses. The problem is that when you change a nonconforming use, if there is any dimensional nonconformity, then that has to be addressed by a variance. What they have now is that the existing barn on proposed lot one is too close to the side line of the existing lot. It will be too close to the side line in the proposed lot; 35 feet is required there.

The second variance that the petitioners need is also on proposed lot one; and that is, that the existing house there is 47.3 feet from the front line, and in an R80 zone, 50 feet is required. That's how the house existed.

The third variance is the lot width on lot 2 is supposed to be 200 feet at the front yard setback. On the plan it's 188.57 feet wide at that point. However, the entire lot is 80,510 square feet. The reason for the width variance is so Mr. Carvalho can keep the gravel driveway on the south lot, proposed lot one, so he can have access to his property.

Attorney Leary also stated that on May 1, the planning board granted conditional preliminary approval to this plan recommending that the zoning board approve this plan.

Mr. Carvalho testified as follows: He presently lives in the house and there is a mobile home which his nephew resides. His nephew wants to purchase Lot Two and the mobile home. Mr. Carvalho would like to keep the gravel driveway where it is, as it is access to the back of his property and there is also a historical cemetery there.

Mr. LaFazia made a motion to grant the least relief under the zoning laws, that this will bring the property into more compliance than at present and also it is an improvement to the area. Mr. Taylor seconded. The Vote was unanimous. Voting were Chairman David Collins, Mr. Jackson, Mr. Taylor, Mr. Fairhurst and Mr. LaFazia.

3. An appeal has been filed by John & Eileen Moran et al appealing a decision of the Building Official to issue a building permit for a new yacht club structure dated December 1, 2006 at 58 Riverside Drive, Tiverton RI being Block 70 Card 5 on Tiverton Tax Assessor's maps and located in a R40 zone.

DECISION: David Collins recused himself from the petition. Mr. Jackson as Vice Chair took over the voting. By agreement of all parties, this matter was continued until September. A motion was made to continue by Mr. LaFazia. Seconded by Mr. Taylor. The Vote was four in favor and Mr. Collins abstained.

4. An appeal has been filed by David M & Kathleen Campbell appealing a decision of the Building Official to issue a building permit for a new yacht club structure dated December 1, 2006 at 58 Riverside Drive, Tiverton RI being Block 70 Card 5 on Tiverton Tax Assessor's maps and located in a R40 zone.

DECISION: David Collins recused himself from the petition. Mr. Jackson as Vice Chair took over the voting. By agreement of all parties, this matter was continued until September. A motion was made to continue by Mr. LaFazia. Seconded by Mr. Taylor. The Vote was four in favor and Mr. Collins abstained.

5. A petition has been filed by Gregory Smolley of JCJ Architecture, Hartford, CT requesting a Special Use Permit to Article IV, Section 4.f. and/or 4.k. of the Tiverton Zoning Ordinance in order to renovate and expand the existing public school structure located at 99 Lawton Avenue, Tiverton, RI being Block 89 Card 9 on Tiverton Tax Assessor's maps whereby a Special Use Permit is required in a R40 zone.

DECISION: Gregory Smolley appeared before the board and stated that the Fort Barton School as it sits now is not up to date on building codes; older students and younger students are sharing the same exits; the fire codes have been met partially but not entirely, there is no handicapped accessibility and for other reasons in which they need to renovate and expand to 34,000 square feet as specified by the State Board of Regions. Currently the building is 20,000 square feet.

Mr. Smolley described the plans as follows: The proposal is to retain that front area of the school to keep its historic features and build to the back towards the south off of the existing school and have a gymnasium about 2,500 square feet which is substantially bigger than what's available to the public now and the media center anchoring the back part of the building, a row of five classrooms to the west which is similar to the arrangement now and a kindergarten and art and music room and administration office off to the east side of the building. On the second floor on the west side of the building that would be another row of five classrooms, stair towers on either side which brings it into compliance with the fire code, and an elevator which brings the school into compliance with the Federal regulations for handicapped accessibility.

They are also changing the bus drop off from the front of the building to the side where the parking currently is, thereby reducing the asphalt coverage to get more water infiltration on that side. They will need a variance for the back yard setback. The building will be 28 feet away from the back line after the construction is completed off the back of the property.

The parking currently on the property is 32. The petitioner is proposing 58 spaces.

There were a few residents from the area that were concerned about the parking when there are special events and how Lawton Avenue is completely full. One resident was concerned about the flooding when there is heavy rain. Mr. Smolley addressed those issues.

Mr. Taylor made a motion to grant the special use permit. He stated the public convenience and welfare will be served and this will not be detrimental to public health, safety, morals and welfare. It will be compatible with the neighborhood uses. It's already being used as a school, will not adversely affect the general character of the area. It also will not create a nuisance in the neighborhood or certainly not anymore than it is now.

Mr. Taylor continued to state that there currently is a parking problem now and doesn't see that changing. He also stated that he doesn't see the flow of traffic that is proposed hindering or endangering vehicle pedestrian movement. It seems like a good flow around the building. The plan appears to have adequate provisions for water surface and sanitary sewerage disposal and fire protection and looking over the

comprehensive community plan which speaks to this matter directly, Mr. Taylor stated it will be compatible with those provisions of the comprehensive community plan. Mr. Jackson seconded. The Vote was unanimous. Voting were Chairman David Collins, Mr. Jackson, Mr. Taylor, Mr. Fairhurst and Mr. LaFazia.

6. A petition has been filed by Gregory Smolley of JCJ Architecture, Hartford, CT requesting a Variance to Article V, Section 1 and Article X, Section 1 of the Tiverton Zoning Ordinance in order to expand the existing public school structure with less than required parking spaces located at 99 Lawton Avenue, Tiverton, RI being Block 89 Card 9 on Tiverton Tax Assessor's maps closer to the rear yard property line than is currently allowed in a R40 zone.

DECISION: Gregory Smolley appeared before the board and stated that the Fort Barton School as it sits now is not up to date on building codes; older students and younger students are sharing the same exits; the fire codes have been met partially but not entirely, there is no handicapped accessibility and for other reasons in which they need to renovate and expand to 34,000 square feet as specified by the State Board of Regions. Currently the building is 20,000 square feet.

Mr. Smolley described the plans as follows: The proposal is to retain that front area of the school to keep its historic features and build to the back towards the south off of the existing school and have a gymnasium about 2,500 square feet which is substantially bigger than what's available to the public now and the media center anchoring the back part of the building, a row of five classrooms to the west which is similar to the arrangement now and a kindergarten and art and music room and administration office off to the east side of the building. On the second floor on the west side of the building that would be another row of five classrooms, stair towers on either side which brings it into compliance with the fire code, and an elevator which brings the school into compliance with the Federal regulations for handicapped accessibility.

They are also changing the bus drop off from the front of the building to the side where the parking currently is, thereby reducing the asphalt coverage to get more water infiltration on that side. They will need a variance for the back yard setback. The building will be 28 feet away from the back line after the construction is completed off the back of the property.

The parking currently on the property is 32. The petitioner is proposing 58 spaces.

There were a few residents from the area that were concerned about the parking when there are special events and how Lawton Avenue is completely full. One resident was concerned about the flooding when there is heavy rain. Mr. Smolley addressed those issues.

Mr. Fairhurst made a motion to grant the variance to Article V Section 1 and Article 10, Section 1 in order to expand the school building. It's been sufficiently demonstrated that the board will be granting the least variance to get this building accomplished in accordance with the fire, building, Board of Education and ADA

requirements. Also, that peculiar site conditions exist; namely, the septic system, the ledge, the water run off, the shape of the land and slope that dictate that the building be built the way it is and that it will be complying with the comprehensive community plan. Mr. Jackson seconded. The Vote was unanimous. Voting were Chairman David Collins, Mr. Jackson, Mr. Taylor, Mr. Fairhurst and Mr. LaFazia.

7. A petition has been filed by Gregory Smolley of JCJ Architecture, Hartford, CT requesting a Special Use Permit to Article IV, Section 4.f. & 4.k. of the Tiverton Zoning Ordinance in order to renovate and expand the existing public school structure located at 242 Main Road, Tiverton, RI being Block 94 Card 41 on Tiverton Tax Assessor's maps whereby a Special Use Permit is required in a R30 zone.

DECISION: Gregory Smolley appeared before the board and explained to the Board that the way Pocasset School is currently built, it is a combination of a three story building and a two story building, which essentially makes five floors. The older section of the building does not comply with the fire codes, state regulatory codes and the ADA codes so they are working to bring it into compliance with the fire code and the building code and the plan of development of the comprehensive community plan and to meet all of the ADA requirements. The total square feet of the entire building currently is 53,800 square feet. They are proposing to reduce it to 34,000 square feet by removing the older section of the building and renovating it. So they will be bringing the building to conformance with the setbacks.

They will have the existing traffic flow enter north of the school, turn around and exit north again because of the better sight distance. They will be eliminating the parking on the south side and making a fire lane for the fire department. Also, they will be reducing the parking spaces from 75 to approximately 52 spaces. The septic system will remain the same, as it is a relatively recent system.

One neighbor was concerned about the parking on the adjacent street and another neighbor expressed a desire to remove the cement stairs going up to Arbor Terrace.

Mr. Taylor made a motion to grant the special use permit required by Section 4 Subsections 4.k and 4.f which requires a special use permit for a school or a public building in an R30 zone. It is certainly in keeping with the requirements of the comprehensive plan. The public convenience and welfare will be served and it will not be detrimental to the public health safety, morals and welfare. It will be compatible with the neighborhood uses and will not adversely effect the general character of the area. It will improve it. This will not create a nuisance in the neighborhood, nor hinder or endanger vehicular or pedestrian movement. They have made adequate provisions for surface water, sanitary, sewerage disposal, fire protection. It will bring it into compliance with the ADA and the fire codes and the building codes, the handicapped accessibility and the board of regions and the state board of education, town desires, also the bond issues. Mr. Jackson seconded. The Vote was unanimous. Voting were Chairman David Collins, Mr. Jackson, Mr. Taylor, Mr. Fairhurst and Mr. LaFazia.

8. A petition has been filed by Gregory Smolley of JCJ Architecture, Hartford, CT requesting a Variance to Article X, Section 1 of the Tiverton Zoning Ordinance in order to expand the existing public school structure located at 242 Main Road, Tiverton, RI being Block 94 Card 41 on Tiverton Tax Assessor's maps with less than required parking spaces located in a R30 zone.

DECISION: Gregory Smolley appeared before the board and explained to the Board that the way Pocasset School is currently built, it is a combination of a three story building and a two story building, which essentially makes five floors. The older section of the building does not comply with the fire codes, state regulatory codes and the ADA codes so they are working to bringing it into compliance with the fire code and the building code and the plan of development of the comprehensive community plan and to meet all of the ADA requirements. The total square feet of the entire building currently is 53,800 square feet. They are proposing to reduce it to 34,000 square feet by removing the older section of the building and renovating it. So they will be bringing the building to conformance with the setbacks.

They will have the existing traffic flow enter north of the school, turn around and exit north again because of the better sight distance. They will be eliminating the parking on the south side and making a fire lane for the fire department. Also, they will be reducing the parking spaces from 75 to approximately 52 spaces. The septic system will remain the same, as it is a relatively recent system.

One neighbor was concerned about the parking on the adjacent street and another neighbor expressed a desire to remove the cement stairs going up to Arbor Terrace.

Mr. Fairhurst made a motion to grant the least variance to Article 10, Section 1 in order to modify the school building in accordance with the fire, building, Board of Education and ADA requirements. The proposal is in keeping with the comprehensive community plan. Also, that peculiar site conditions exist; namely, the 200 foot wide width of the parcel that necessitates the building shape and structure. Mr. Taylor seconded. The Vote was unanimous. Voting were Chairman David Collins, Mr. Jackson, Mr. Taylor, Mr. Fairhurst and Mr. LaFazia.

Administrative Items: No administrative items were discussed. Mr. Jackson made a motion to adjourn. The Vote was unanimous. Voting were Chairman David Collins, Mr. Jackson, Mr. Taylor, Mr. Fairhurst and Mr. LaFazia. Whereupon the meeting adjourned at 10:27 p.m.

ZBR/MAE